

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION**

Bruce Knowlton)	
)	
Plaintiff,)	
)	
vs.)	
)	
Blue Cross Blue Shield of Texas, a Division)	Case No. 4:16-cv-287
of Health Care Service Corporation,)	
Higginbotham Insurance Agency, Inc. and)	
Pro Power Providers, LLC)	
)	
Defendants)	
)	

NOTICE OF REMOVAL

Defendant Blue Cross and Blue Shield of Texas, a Division of Health Care Service Corporation (“BCBSTX”), hereby removes Case No. 352-284318-16 from the 352nd Judicial District Court of Tarrant County, Texas to the United States District Court for the Northern District of Texas pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, pursuant to federal question jurisdiction.

Background

1. On March 11, 2016, Plaintiff Bruce Knowlton (“Plaintiff”) filed a Petition in the 352nd Judicial District Court of Tarrant County, Texas against BCBSTX, Higginbotham Insurance Agency, Inc. and Pro Power Providers, LLC, in Cause No. 352-284318-16 (the “State Court Action”). A copy of the Petition is included within the Appendix hereto as Exhibit 2.

2. BCBSTX was served with the citation and Petition on March 24, 2016.

3. The Petition purports to assert four causes of action including: (a) breach of contract; (b) breach of an alleged duty of good faith and fair dealing; (c) violations of the Texas

Insurance Code and (d) violations of the Texas Deceptive Trade Practices-Consumer Protection Act (“DTPA”). *See* Petition at 2-5.

Federal Question Jurisdiction

4. This action is removable under 28 U.S.C. § 1441 on the basis of a federal question. ERISA provides for federal jurisdiction where one or all of a plaintiff’s claims against a defendant arise under and are within the scope of 29 U.S.C. § 1132(a), the civil enforcement provision of ERISA. Congress intended for such claims brought in state court to be completely preempted by federal law and tried in federal court, and the United States Supreme Court has ruled that ERISA broadly preempts state law claims that relate to ERISA-governed plans. *Pilot Life Ins. Co. v. Dedeaux*, 481 U.S. 41, 47 (1987).

5. Plaintiff seeks benefits under an employer-sponsored health benefits plan. Petition at 1-2. Plaintiff’s claims thus “relate to” a benefit plan governed by ERISA and are completely preempted by that statute’s civil enforcement scheme. *See Aetna Health Inc. v. Davila*, 542 U.S. 200, 210 (2004); 29 U.S.C. § 1132(a)(1)(B).

All Procedural Requirements for Removal Have Been Satisfied

6. Pursuant to 28 U.S.C. § 1446(a) and Local Rule 81.7, a true and correct copy of all documents filed in the State Court Action are being filed with this Notice of Removal in the Appendix.

7. This Notice of Removal has been filed within 30 days of the date that Defendant was served with the citation and Petition in this matter. Removal is therefore timely in accordance with 28 U.S.C. § 1446(b). All Defendants consent to this removal. See Exhibits A and B, attached hereto.

8. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1441(a) and 1446(a) because the U.S. District Court for the Northern District of Texas is the federal judicial district embracing the District Court of Tarrant County, Texas where the State Court Action was originally filed.

Conclusion

By this Notice of Removal, Defendant does not waive any objections that it have as to service, jurisdiction or venue, or any other defenses or objections it may have to this action. Defendant intends no admission of fact, law or liability by this Notice, and expressly reserves all defenses, motions and/or pleas.

Dated: April 22, 2016

Respectfully submitted,

By: /s/ Andrew F. MacRae
ANDREW F. MACRAE
State Bar No. 00784510
LEVATINO|PACE PLLC
1101 S. Capital of Texas Hwy
Building K, Suite 125
Austin, Texas 78746
Tel: (512) 637-1581
Fax: (512) 637-1583
andrew@lpfirm.com

Attorneys for Defendant
Blue Cross Blue Shield of Texas

CERTIFICATE OF SERVICE

I hereby certify that on April 22, 2016, I filed the foregoing Notice of Removal through the CM/ECF system, and served a copy of the Notice of Removal on all counsel of record, as follows:

David B. Joeckel, Jr.
The Joeckel Law Office
219 South Main Street, Suite 301
Fort Worth, Texas 76104

Daniel A. Ortiz
Giana Ortiz
The Ortiz Law Firm
1304 West Abram St., Suite 100
Arlington, Texas 76013

Kevin L. Sewell
Martin, Disiere, Jefferson & Wisdom, LLP
Tollway Plaza One
16000 N. Dallas Parkway, Suite 800
Dallas, Texas 75248

/s/ Andrew F. MacRae
Andrew F. MacRae

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Defendants

Case No. 4:16-cv-

CONSENT TO REMOVAL

Defendant Pro Power Providers, LLC hereby consents to removal of this case from the 352nd Judicial District Court of Tarrant County to the United States District Court for the Northern District of Texas.

Date: April 22, 2016.

THE ORTIZ LAW FIRM
1304 West Abram St., Suite 100
Arlington, Texas 76013
817/861-7984
817/861-8909 (fax)

By: 

Daniel A. Ortiz
State Bar No. 15323100
dortiz@ortizlawtx.com
Giana Ortiz
State Bar No. 24053824
gortiz@ortizlawtx.com

ATTORNEYS FOR DEFENDANT
PRO POWER PROVIDERS, LLC

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Defendants

Case No. 4:16-cv-

CONSENT TO REMOVAL

Defendant Higginbotham Insurance Agency, Inc. hereby consents to removal of this case from the 352nd Judicial District Court of Tarrant County to the United States District Court for the Northern District of Texas.

Date: April 22, 2016.

MARTIN, DISIERE, JEFFERSON & WISDOM, LLP
16000 N. Dallas Parkway, Suite 800
Dallas, Texas 75248
214/420-5500
214/420-5501 (fax)

By: 

Kevin L. Sewell
State Bar No. 00789619
sewell@mdjwlaw.com
Matthew S. Paradowski
State Bar No. 24027588
paradowski@mdjwlaw.com

ATTORNEYS FOR DEFENDANT
HIGGINBOTHAM INSURANCE
AGENCY, INC.